

PUBLIC SUBMISSION

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Definition of an Investment Advice Fiduciary

Comment On: EBSA-2023-0014-0001
Retirement Security Rule: Definition of an Investment Advice Fiduciary

Document: 1210-AC02 comment 00069 Boyle 12152023

Submitter Information

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General Comment

The Honorable Lisa M. Gomez
Assistant Secretary of Labor
Employee Benefits Security Administration
U. S. Department of Labor
200 Constitution Avenue, N.W.
Washington, D.C. 20210

RE: RIN 1210-AC02

Dear Honorable Gomez,

Please know I am concerned the new U.S. Department of Labor (DOL) proposed fiduciary rule will threaten Main Street families' ability to access financial professionals for sound, unconflicted financial advice to advance financial and retirement security.

This new rule proposal largely resurrects the failed 2016 DOL “fiduciary-only” rule that limited savers’ choice of advisors and investments.

With this proposed revision, DOL ignores the real-world experience demonstrating

that the 2016 DOL fiduciary rule significantly harmed lower and middle-income workers before being thrown out in 2018 by a federal appeals court. Adopting the 2016 fiduciary rule resulted in more than 10 million smaller retirement account owners losing the ability to work with their preferred financial professionals. Main Street savers could simply not afford to retain advisors under the fiduciary-only model of regulation. Moreover, if DOL adopts a new rule that is like the 2016 rule, recent research concludes the retirement savings of 2.7 million individuals with incomes below \$100,000 would plummet by \$140 billion over ten years. Black and Latino retirement account owners would be among the hardest hit, increasing the racial wealth gap by 20 percent.

Regulators at the federal and state levels have adopted significant new regulations since 2016 that directly address the conflicts of interest that DOL seeks to address with its new proposed rule. The U.S. Securities and Exchange Commission (SEC) adopted Regulation Best Interest (Reg BI), and forty-one states have now enacted an updated National Association of Insurance Commissioners (NAIC) model regulation that requires insurance producers to satisfy a best interest standard that aligns well with Reg BI. In addition, DOL adopted its own new rule in 2020 that complements the federal and state regulatory regime.

Adopting this proposed rule will leave millions of Main Street investors on their own in trying to achieve retirement security for themselves and their families. It is unnecessary because there are already federal and state regulatory structures to protect consumers, and DOL has provided no evidence that consumers are not being protected by the existing rules.

I ask that you please withdraw the proposed final regulation and proposed amendments to protect the interest of Main Street Americans.

Sincerely,
Diane Boyle
Virginia